

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 4:05-cr-40021-FDS
)	
LEO BEATTY,)	
Defendant.)	

**ASSENTED-TO MOTION TO ENLARGE GOVERNMENT’S RESPONSE PERIOD
AND TO CONTINUE HEARING ON DEFENDANT’S DISCOVERY MOTIONS**

The United States of America (the “government”), with the assent of the defendant, Leo Beatty, respectfully requests this Honorable Court to enlarge the government’s response deadline to defendant’s discovery motions and to continue the hearing on said motions, which is currently set for Tuesday, January 17, 2005 at 2:15 p.m., in the above captioned matter. The government also moves, with the assent of the defendant, to exclude the time from January 13, 2006 (*i.e.*, the date on which the Court’s last order of excludable time expires) to the date upon which the Court conducts a hearing on the defendant’s discovery motions. In support of this motion, the government states as follows:

1. In a Status Report dated December 5, 2005, the Court ordered that any discovery motion must be filed by the defendant by December 23, 2005, and that the government must respond by January 13, 2006.
2. On December 27, 2005, the defendant filed two discovery motions – (i) one for further discovery in general and (ii) one for discovery regarding confidential informants. The Court’s clerk, however, immediately deleted these motions from the Court’s ECF filing

system because they were filed without leave of court. See Docket Entries dated Dec. 27, 2005 and Dec. 28, 2005. Counsel for the government was therefore unable to obtain and print a copy of the defendant's motions.

3. On December 28, 2005, this Honorable Court granted the defendant leave to file his discovery motions late. Upon receiving notice of the Court's ruling, counsel for the government called the Clerk's Office to request that the defendant's motions be re-scanned and docketed so that the government could obtain a copy and prepare a response. Counsel for the government was informed, however, that it was the defendant's responsibility to re-file the motions after receiving notice of the Court's ruling.
4. As of January 10, 2006, however, the defendant's discovery motions remained un-filed. On January 10, 2005, counsel for the government therefore called defense counsel, who immediately re-filed the motions that day. Counsel for the government therefore received a copy of the defendant's motions on January 10, 2006, via the Court's ECF system.
5. In light of the above, the government respectfully moves, with the assent of the defendant, for an enlargement of time (from January 13, 2006) to January 25, 2006, to prepare a response to the defendant's discovery motions.
6. The government also moves, with the assent of the defendant, to continue the Motion Hearing on the defendant's discovery motions (which is currently set for January 17, 2006) to January 26, 2006 or January 27, 2006, if either of these dates is convenient for the Court. Otherwise, the parties respectfully request that the hearing be rescheduled for another day after January 27, 2006 that is convenient for the Court.

7. Defense counsel has assented to this motion, including excluding the time from January 13, 2006, until the new date for the Motion Hearing for purposes of the Speedy Trial Act.

WHEREFORE, the United States requests that this Honorable Court: (a) continue the government's response deadline to defendant's discovery request letter to January 25, 2006; (b) reschedule the Motion Hearing on the defendant's discovery motions from January 17, 2006, until January 26, 2006, January 27, 2006, or another date convenient for the Court; and (c) exclude the time under the Speedy Trial Act accordingly (*i.e.*, from January 13, 2006 until the date of the Motion Hearing).

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Lisa M. Asiaf
LISA M. ASIAF
Assistant U.S. Attorney
Tel: (617) 748-3268

January 10, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 10, 2006.

/s/ Lisa M. Asiaf
Lisa M. Asiaf

Assistant U.S. Attorney